

United States District Court

for the
Western District of New York

United States of America

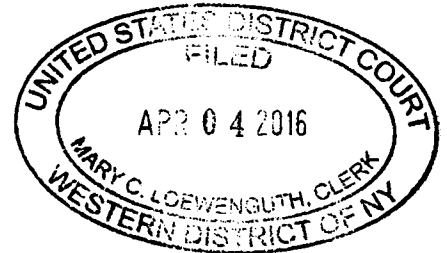
v.

Michael Bush

Defendant

Case No. 16-M-

47



CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of February 26, 2016, in the Western District of New York, the defendant did transmit communication containing a threat to injure the person of another, in violation of 18, United States Code, Section 875(c).

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

A handwritten signature in cursive script, reading "Steven P. Donnelly".

Complainant's signature

STEVEN DONNELLY
SPECIAL AGENT
Federal Bureau of Investigation

Printed name and title

Sworn to before me and signed in my presence.

Date: April 4, 2016

A handwritten signature in cursive script, reading "H. Kenneth Schroeder, Jr.".

Judge's signature

HONORABLE H. KENNETH SCHROEDER, JR.
UNITED STATES MAGISTRATE JUDGE

Printed name and title

City and State: Buffalo, New York

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

STEVEN DONNELLY, hereby depose and state as follows:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed for 6 years. I am currently assigned the Buffalo Division of the FBI, which is in the federal Western District of New York. In my career as an FBI Special Agent, I have investigated many federal crimes, including violent crimes. As a part of my official duties, I also investigate violations of the federal statute which prohibits the transmission in interstate commerce of a threat to injure the person of another, Title 18, United States Code, Section 875(c).

2. I make this affidavit in support of a criminal complaint and warrant to arrest Michael Bush who resides at 737 Baker Street Extension, Jamestown, New York, an address physically located in the Town of Ellicott, New York. The information contained herein is based upon information I have learned during the course of an FBI investigation into threats made by Bush to kill members of the Jamestown, New York Police Department (JPD). As this affidavit is made for the limited purpose of supporting an application for a criminal complaint and arrest warrant, I have not included each and every fact known to me or investigators.

3. Title 18, United States Code, Section 875(c) reads as follows:

Whoever transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than five years, or both.

Background

4. Michael Bush was employed as a Jamestown Police officer from March 17, 2003 to December 12, 2014. As discussed below, he was either suspended from his police duties or on administrative leave from January 18, 2013 until he resigned from the JPD on December 12, 2014.

5. During his tenure as a police officer, Bush was assigned as a uniformed patrol officer. He also served as a member of the Jamestown Police Department's special weapons and tactics team, known more commonly as a SWAT team. Bush, like other members of the SWAT team, received advanced training in the use of firearms, including rifles and handguns. More particularly, Bush was designated as a SWAT sniper/observer. In a law enforcement setting, SWAT sniper/observers are trained in the use of precision high powered rifles and high powered optical sighting systems. A SWAT sniper/observer's responsibilities are primarily to observe the behaviors of subjects at a crisis site, such as locations where hostages are held or at locations where persons barricade themselves in standoffs with police. To allow such observations, SWAT sniper/observers are trained in the use of "stalking" techniques and the use of highly camouflaged suits, commonly known as "ghillie suits," to move into positions where they can secretly watch their area of assignment, such as a house where hostages are being held. SWAT sniper/observers are

trained to deliver precision rifle fire, when necessary and lawful, to eliminate the threat posed by a person who is threatening to cause death or serious physical injury to another person.

6. During his tenure with the JPD SWAT team, Bush attended and successfully completed a sniper/observer training program held by the Buffalo division of the FBI. Bush was awarded the "Top Gun" award during this training for attaining the highest marksmanship scores during the training course. The approximately 25 students in this course were police officers assigned as sniper/observers on SWAT teams based in western New York State and southern Ontario, Canada. During this training, sniper/observers were expected to consistently strike targets the size of a golf ball or smaller from a distance of 100 yards or more.

7. In or about November 2010, Bush reported to the JPD chief of police that Bush was experiencing emotional stress that was interfering with his performance as a police officer. Accordingly, Bush agreed to seek evaluation and treatment from a licensed mental health professional. After approximately two months, Bush returned to JPD to resume his normal duties.

8. In November 2011, Bush made a comment in which he threatened to put a bullet in the head of another JPD police officer. Bush was disciplined by being served a letter of censure by the JPD. He remained on duty as a JPD patrol officer.

9. On January 18, 2013, police were called to a reported domestic violence incident at Bush's residence at 737 Baker Street Extension in the Town of Ellicott, New York. Bush's residence is located less than a mile outside of the city limits of Jamestown, New York. Upon arrival, police officers were met outdoors by Bush's wife who told police that everything was fine. Nevertheless, according to their policy, police officers were required to ensure everyone in the home was safe. When police went into Bush's home, he confronted them while holding a rifle, and he demanded that they leave. The police withdrew and called for backup officers to respond. This incident drew a heavy police response, including a response of the Jamestown Police SWAT team which surrounded Bush's residence. Two officers from the Town of Ellicott Police Department negotiated with Bush encouraging him to drop his weapon and surrender peacefully over the course of the next approximately three hours. Bush held police officers at bay while he brandished a rifle in a threatening way. At one point when one of the officers got close to Bush, he made a more threatening physical gesture and pointed the weapon in a direction close to the police officer. During their negotiations with Bush, he repeatedly told officers that all he ever wanted was to be was a police officer and that senior leaders of the Jamestown Police Department had taken that away from him. Bush stated that the supervisors at JPD had ruined his life. During the negotiations with police, Bush stated that while he was employed as a JPD patrolman, he felt that the treatment he endured from his supervisors was so unbearable that he needed to self medicate with alcohol and overdoses of prescription drugs. Bush demanded that JPD Capt. Samuelson come to the basement area where Bush had barricaded himself. Bush stated that he wanted Samuelson and Samuelson's family to burn in hell. Bush made several veiled threats to kill Samuelson, Jamestown Chief of Police

Harry Snellings, JPD Sergeant Shane Swan, and JPD Sergeant Robert Buchanan to rectify the perceived injustices Bush suffered during his employment as a JPD officer. Although Bush did not state explicitly that he intended to kill these police officers, he did convey in sum and substance that he wished to kill them. Bush said that he possessed a great deal of skill with respect to SWAT tactics and weapons proficiency and that he knew exactly what kind of tactical response officers were planning to take him into custody. Bush repeatedly made reference to his training as a sniper and that he possessed the ability to secretly observe Samuelson and other officers from a distance while aiming a long range rifle at them. Bush boasted to officers that he had recently shot himself with a pistol which created a slight grazing wound to his scalp with the fired bullet. Bush said several times that he had no life without being a police officer and that his family and children would be better off without him.

10. Police were ultimately successful in getting Bush to surrender. He was taken into custody and brought to the police station. There, he continued making threats to Jamestown police officers, stating that he would never stop his efforts to see those police officers die and have their families destroyed. Bush was transported to Lakeshore Hospital in Dunkirk, New York where he was admitted for a mental health evaluation. He was released from the hospital a few days later.

Probable Cause

11. Bush continued making threats to shoot and kill police officers and others after the January 18, 2013 standoff with police, several episodes of which are detailed

below. In most of the threats, Bush directly named or referred to Captain Samuelson of the JPD as the target of his threats.

12. In early January 2015, the Jamestown Police Department received a complaint from a citizen who had noticed a posting on the New York City Police Department's (NYPD) Facebook webpage. The particular NYPD webpage featured a photograph of hundreds of NYPD police officers with heads bowed in a moment of silence to pay respects to two NYPD officers who had been murdered days earlier. Several of the public comments on this Facebook page were critical of police. A Facebook user utilizing the screen name "Mike Bush" wrote a comment that read, "To all the cop haters....Bang bang...Bang. 2 to your chests one to your empty heads." Your Affiant knows from law enforcement firearms training that police officers are often trained to fire "two [bullets] to the chest and one to the head" in firearms training drills.

13. This posting on the NYPD Facebook page was made on December 30, 2014 at 6:48 a.m. by a user utilizing a Facebook screen name of "Mike Bush" and a Facebook account name of "mike.bush.9279." According to the records of Facebook, the Facebook account name "mike.bush.9279" and the Facebook screen name "Mike Bush" were accessed only through the originating internet protocol address (IP address) of 67.252.89.141 from 4:00 a.m. eastern standard time on December 30, 2014 to 3:59 a.m. eastern standard time on December 31, 2014, a time span which covers the time of the posting on the NYPD Facebook page. According to the records of Time Warner, Inc., the subscriber who utilized IP address 67.252.89.141 at the time and date of the posting

described in paragraph 12, above, was getting Time Warner Internet service at 737 Baker Street Extension, Jamestown, New York. The account is in the name of Ronda Stanton, who is Bush's wife, and they both live together at a single family home at 737 Baker Street Extension, Jamestown, New York. Although this residence is located in the Town of Ellicott just outside of the city limits of Jamestown, New York, it has a mailing address of Jamestown, New York.

14. Topix.com is an Internet website that hosts a large number of forums that allow users to comment publicly on matters of community interest. A feature of the Topix.com website is its local forums where content is generated by users in their own local community. Topix.com forums exist for Jamestown, New York and Lakewood, New York, and both municipalities are in the immediate area of Bush's residence. Topix.com forums are often reviewed by local police agencies in the Jamestown, New York area as the forums tend to be frequented by persons who discuss criminal activity that is occurring in the area. Accordingly, it is reasonable to conclude that Bush was aware that postings in the Jamestown or Lakewood Topix.com forums would be read by members of area police agencies, especially when such postings referred to individual members of area law enforcement agencies. The servers of Topix.com are physically located in Palo Alto, California. Accordingly, any posting on the Topix.com website by an author physically located in New York State is transmitted over facilities in interstate commerce.

15. On January 2, 2015, a posting appeared on the Internet website Topix.com in the Lakewood, New York forum. The posting is titled "wjb." Jamestown police officers

have told the FBI that “wjb” is Bush’s derogatory reference to Captain Robert Samuelson, as the letters stand for “Whack Job Bob.” The self-assigned screen name of the user who authored the posting was “Lordguidesme.” The posting read as follows, with typographical and grammatical errors included:

So you made it thru the process you think? 2015 is your year my friend. I watch your, see your comings and goings. Know your patterns. You are predictable. But God, the police department and Satan will not save you this year, for Satan calls his disciples. You can't afford to run, can't afford to hide. I see you daily and my life revolves around your going away. I give you till 12/31/15 to retire. To disappear. To give those at Jpd a rest from your wrong DOINGS, your constant stress you create them. Find me and you shall find your salvation. You think you are safe because you wear a tarnished gold badge? You my friend are far from safe. God says VENGEANCE shall be his. But I have been given the go ahead by God to take it. To help others under your tyranny. Be afraid Robert, because if you are not you are not as smart as I thought. Watch from my shadows. I see you at night. At day and I see your crooked soul. Till I see you again my lost friend.

16. According to the records of Topix.com, the person who made this posting utilized internet protocol address (IP address) 67.252.89.141 which is operated by Time Warner, Incorporated. This is the same IP address as noted in paragraph 13, above, used three days earlier, the same IP address then associated with Time Warner Internet service at Bush’s residence, 737 Baker Street Extension, Jamestown, New York.

17. It is reasonable to believe that the posting’s reference to being “...given the go ahead by God to take it” refers to taking a shot using a firearm. It is also reasonable to believe that the posting’s passages, “I watch your, see your comings and goings. Know your patterns. You are predictable....Watch from my shadows. I see you at night...” refer to the clandestine observing techniques a law enforcement sniper/observer is trained to employ.

18. On September 22, 2015 at 6:00 p.m., a police officer of the Town of Ellicott Police Department received a telephone call from Bush. The police officer documented the call in a detailed police report. According to the officer's report, the police officer knew Bush personally and positively identified the caller as Bush. Bush told the police officer that Bush was seeing several counselors and his pastor and that he was being prescribed several medications, including Xanax, a drug that is used to treat anxiety disorders, panic disorders, and anxiety caused by depression. Bush then stated that he was having a Will prepared because he was "going to take out Harry Snellings, Bob Samuelson, Bill Ohnmeiss, and Bob Buchanan and then I'm going off (sic) myself." These named men are the Jamestown Police Department chief of police, a JPD captain, the Town of Ellicott Police Department chief of police, and a JPD sergeant, respectively. Bush related that he was reading Bible verses including passages that include "an eye for an eye." Bush also referenced a quote, "the only thing necessary for evil to triumph is for good men to stand and do nothing." Bush stated that he needed to act as all four of the officers he identified were evil, and that they had taken away his ability to be a police officer. He stated that if law enforcement tried to take away his guns there would be a "blood bath." Bush said that "[JPD supervisors] are going to suffer as much pain as I have...I'm giving Samuelson until January 1, 2016 to retire...when you see Ohnmeiss, tell him he better enjoy breathing now."

19. Bush's phone call to the police on September 22, 2015 is consistent with the Topix.com posting of January 2, 2015 that originated from an IP address associated with Bush's residence only three days earlier. In particular, Bush stated verbally that he was giving Captain "Samuelson until January 1, 2016 to retire," and the Topix.com posting

stated, "I give you till 12/31/15 to retire. To disappear." More generally, both Bush's verbal statements and the Topix.com posting of January 2, 2015 are thematically similar in their threats directed toward JPD Captain Samuelson. Accordingly, it is reasonable to conclude that Bush authored the Topix.com posting of January 2, 2015.

20. On February 26, 2016, a Jamestown police officer noticed a discussion thread on the Topix.com forum for Jamestown, New York titled "robert f samuelson (sic)." The posting on the forum was written by a person who used the screen name "GODS KARMA (sic)." The posting reads as follows, with typographical, capitalization, and grammatical errors included:

Why on GODS GREEN EARTH DID SGT. SWANS PRECIOUS DAUGHTER HAVE TO DIE. IT SHOULD HAVE BEEN YOUR UGLY KIDS OR YOU. YOU AND THE CHIEF ARE AS CORRUPT AS SATAN MAKES THEM YET YOU LIVE....I SAY WHY? THEN I KNOW THAT GOD IS MAKING ME Y IS VESSEL TO ENACT HIS DEATH ON YOU TWO. AND I WILL. YOU WILL NOT ENJOY YOUR LIFE..YOUR RETIREMENT. THE GROWTH OF YOU. CHILDREN. I WILL TAKE BOTH YOUR LIVES BEFORE YOU ATTEMPT TO SEND THE INNOCENT OFFI ERS OUT TO HUNT ME DOWN. THE MOST I GET IS TIME. MAYBE IN A MENTAL INSTITUTION. BUT I WILL BE OUT AND I WILL KILL YOU TWO. THIS GAURANTEE AS MY GOD HAS ORDERED ME TO. KEEP OUR HEADS ON A SWIVEL. HAVE HARRY I WAT H YOU YOU ARROGANT AHOLE. THRU THE WOODS OFF THE CHURCH AREA ON NEW LAND. BOBBY YOU LIVE WITH YOUR PAPA AFTER YOUR AHOLE MOM DIED AS YOU WILL. I CANT WAIT. THIS IS MY WILL. MY CREED. MY ORDERS FROM GOD HIMSELF. CANT WAIT SEE YOU TWO WRITHING IN PAIN AND THEN WATCH YOU IN DEATH. THEN I WILL END MY LIFE. GOD ORDERS ME THIS. SEE YOU BOTH IN HEAVEN OR HELL.

21. According to the records of Topix.com, the person who made this posting utilized internet protocol address (IP address) 172.100.135.142 at 11:11 p.m. eastern

standard time on February 26, 2016. This IP address was operated by Time Warner, Incorporated. According to the records of Time Warner, Inc., the subscriber who utilized this IP address at the time and date of the posting in the above paragraph was getting Time Warner Internet service at Bush's residence, 737 Baker Street Extension, Jamestown, New York.

22. The posting of paragraph 20 articulates an unqualified and explicit threat of death upon the persons of "HARRY" and "BOBBY." The reference to "HARRY" appears to be Harry Snellings, the JPD chief of police, as the author stated that he is watching "HARRY... THRU THE WOODS OFF THE CHURCH AREA ON NEW LAND." Chief Snellings' personal residence is on Newland Avenue in Jamestown, New York and his residence is within view of a wooded area near Hillcrest Baptist Church. "BOBBY" appears to be Captain Robert Samuelson, as Samuelson did live for a time with his father after the death of his mother. The passage, "Why on GODS GREEN EARTH DID SGT. SWANS PRECIOUS DAUGHTER HAVE TO DIE[?]" appears to refer to the death due to cancer of a JPD police sergeant's 3-year old daughter last year.


23. The posting of paragraph 20 is thematically consistent with Bush's verbal threats on September 22, 2015 in which he threatened to kill Snellings, Samuelson, and other officers. It is also thematically consistent with Bush's verbal statements he made to police officers during the standoff with police on January 18, 2013. The records of Facebook, Topix.com, and Time Warner revealed that the IP addresses utilized in the online posts described in paragraphs 12, 15, and 20, above, are associated with the Time

Warner Internet service located at Bush's residence, 737 Baker Street Extension, Jamestown, New York. Bush's wife is a sworn police officer in a city police department in the Western District of New York. There is no evidence known to the FBI to indicate that Bush's wife or the children in their home authored these postings. Therefore, it is reasonable to conclude that Bush authored the Topix.com postings which implicitly and explicitly threatened death to other persons described in paragraphs 15 and 20, above, as they are all closely consistent with the verbal statements he made to police officers of the Town of Ellicott police department in both January 2013 and on September 22, 2015. Since the IP addresses of these postings originated from Bush's residence in the Western District of New York and were transmitted to Topix.com computer servers in Palo Alto, California, the communications of paragraphs 15 and 20 posted on the Topix.com website traveled in interstate commerce. In particular, it is reasonable to conclude that the explicit, unequivocal, and directed threats to injure the person of another issued by Bush in the Topix.com posting discussed in paragraph 20, above, constitute a violation of Title 18, United States Code, Section 875(c).

Conclusion

24. Based on the above, I respectfully request that this Court find probable cause exists to believe that on February 26, 2016, Michael Bush authored a threat to kill the person of another, the transmission of which affected interstate commerce, in violation of

Title 18, United States Code, Section 875(c). I also respectfully request that this Court authorize the issuance of a criminal complaint and a warrant to arrest Michael Bush.


STEVEN DONNELLY
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me

this ~~17th~~ day of April, 2016.


HON. H. KENNETH SCHROEDER, JR.
United States Magistrate Judge